

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO**

UNITED STATES OF AMERICA,

Plaintiff,

v.

CRIMINAL NO. 23-191 (PAD)

[3] SANTOS MATIAS VARGAS-VARGAS,

Defendant.

**MAGISTRATE JUDGE’S REPORT AND RECOMMENDATION**  
**RE: RULE 11(c)(1)(B) GUILTY PLEA HEARING**

**I. Procedural Background:**

On May 10, 2023, defendant Santos Matias Vargas-Vargas was charged in a two-count Indictment with violations to the Maritime Drug Law Enforcement Act (“MDLEA”). (Docket No. 17). He agreed to plead guilty to Count One of said indictment.

Count One charges that beginning on a date unknown, but until and including on April 29, 2023, on the high seas, elsewhere and within the jurisdiction of this Court, Mr. Vargas and others, did knowingly and intentional combine, conspire, confederate and agree with each other and others known and unknown to the Grand Jury, to commit an offense against the United States, to wit: to possess with intent to distribute five (5) kilograms or more of a mixture or substance containing a detectable amount of cocaine, a Schedule II controlled substance, aboard a vessel subject to the jurisdiction of the United States. All in violation of 46 U.S.C. §§ 70503(a)(1) & (b), 70506(b) and 21 U.S.C. § 960(b)(1)(B)(ii).

1 Defendant appeared before me, assisted by the court interpreter, on April 24,  
2 2024, after the Rule 11 hearing was referred to me by the Presiding District Judge. *See*  
3 *United States v. Woodard*, 387 F.3d 1329 (11th Cir. 2004) (magistrate judge had  
4 authority to conduct Rule 11 guilty plea hearing with consent of defendant). He was  
5 advised of the purpose of the hearing and placed under oath with instructions that his  
6 answers must be truthful lest he subject himself to possible charges of perjury or making  
7 a false statement.  
8

9 **II. Consent to Proceed Before a Magistrate Judge:**

10 Defendant was provided with a Waiver of Right to Trial by Jury form, which he  
11 signed.<sup>1</sup> He was advised of his right to hold all proceedings, including the change of plea  
12 hearing, before a district court judge. He received an explanation of the differences  
13 between the scope of jurisdiction and functions of a district judge and a magistrate judge.  
14 He was informed that if he elected to proceed before me, a magistrate judge, that I would  
15 conduct the hearing and prepare a report and recommendation, subject to review and  
16 approval of the District Judge. The defendant then voluntarily consented to proceed  
17 before me.  
18  
19

20 **III. Proceedings Under Rule 11 of the Federal Rules of Criminal**  
21 **Procedure:**

22 Rule 11 of the Federal Rules of Criminal Procedure governs the acceptance of  
23 guilty pleas to federal criminal violations. Pursuant to Rule 11, in order for a plea of guilty  
24

---

25  
26  
27 <sup>1</sup> The form entitled Consent to Proceed Before a United States Magistrate Judge in a Felony Case for Pleading Guilty  
(Fed. R. Crim. P. 11) and Waiver of Jury Trial, signed and consented by both parties is made part of the record.  
28

1 to constitute a valid waiver of the defendant's right to trial, the guilty plea must be  
2 knowing and voluntary. *United States v. Hernandez-Wilson*, 186 F.3d 1, 5 (1st Cir. 1999).  
3 "Rule 11 was intended to ensure that a defendant who pleads guilty does so with an  
4 'understanding of the nature of the charge and consequences of his plea.'" *United States*  
5 *v. Cotal-Crespo*, 47 F.3d 1, 4 (1st Cir. 1995) (quoting *McCarthy v. United States*, 394 U.S.  
6 459, 467 (1969)). There are three core concerns in a Rule 11 proceeding: 1) absence of  
7 coercion; 2) understanding of the charges; and 3) knowledge of the consequences of the  
8 guilty plea. *Cotal-Crespo*, 47 F.3d at 4 (citing *United States v. Allard*, 926 F.2d 1237, 1244  
9 (1st Cir. 1991)).  
10

11  
12 **A. Competence to Enter a Guilty Plea**

13 I questioned the defendant about his age, education, employment, history of any  
14 treatment for mental illness or addiction, use of any medication, drugs, or alcohol, and  
15 his understanding of the purpose of the hearing, all in order to ascertain his capacity to  
16 understand, answer and comprehend the change of plea colloquy. I confirmed that the  
17 defendant received the indictment and fully discussed the charges with his attorney and  
18 was satisfied with the advice and representation he received. In addition, I further  
19 inquired whether defendant's counsel or counsel for the government had any doubt as to  
20 his competency to plead, receiving answers from both that the defendant was competent  
21 to enter a plea. After considering the defendant's responses, and observing his demeanor,  
22 a finding was made that Mr. Vargas was competent to plead and fully aware of the  
23 purpose of the hearing.  
24  
25  
26  
27  
28

**B. Maximum Penalties**

Upon questioning, the defendant expressed his understanding of the maximum penalties prescribed by statute for the offense to which he was pleading guilty, namely: a term of imprisonment of at least ten (10) years, but not more than life, a fine of not more than ten million dollars (\$10,000,000), and a supervised release term of at least five (5) years in addition to any term of incarceration. The defendant also understood that a Special Monetary Assessment of \$100.00 would be imposed, to be deposited in the Crime Victim Fund, pursuant to Title 18, United States Code, Section 3013(a). The court explained the nature of supervised release and the consequences of revocation. The defendant indicated that he understood the maximum penalties for Count One and the potential consequences of the guilty plea.

**C. Plea Agreement**

Mr. Vargas was shown his plea agreement, and the plea agreement supplement, which are part of the record, and identified his initials and signatures. He confirmed that he had the opportunity to read and discuss the plea agreement with his attorney before he signed it, that it represented the entirety of his understanding with the government, that he understood its terms, and that no one had made any other or different promises or assurances to induce him to plead guilty.

The defendant was then admonished, pursuant to Fed. R. Crim. P. 11(c)(1)(B), and expressed his understanding that the terms of the plea agreement are merely recommendations to the court, and that the district judge who will preside over the sentencing hearing can reject the recommendation without permitting the defendant to withdraw his guilty plea, and impose a sentence that is more severe than the defendant

1 might anticipate. The defendant was specifically informed that the court, after  
2 considering the applicable Sentencing Guidelines, could impose a sentence different  
3 from any estimate in the plea agreement or provided by his attorney, and that the court  
4 had the authority to impose a sentence that is more severe or less severe than the  
5 sentence called for by the Sentencing Guidelines. The defendant was advised, and  
6 understood, that the Sentencing Guidelines are no longer mandatory and are thus  
7 considered advisory, and that during sentencing the court will consider the sentencing  
8 criteria found at Title 18, United States Code, Section 3553(a).  
9

10 The defendant was advised that under some circumstances he or the government  
11 may have the right to appeal the sentence the court imposes, but that pursuant to the  
12 plea agreement the defendant will waive his right to appeal both his sentence and his  
13 conviction if the court adopts the plea agreement and sentences him according to its  
14 terms and conditions.  
15

16 **D. Waiver of Constitutional Rights**

17 Mr. Vargas was specifically advised that he has the right to persist in a plea of not  
18 guilty, and if he does so persist that he has the right to a speedy and public trial by jury,  
19 or trial before a judge sitting without a jury if the court and the government so agree;  
20 that at trial he would be presumed innocent and the government would have to prove his  
21 guilt beyond a reasonable doubt; that he would have the right to the assistance of counsel  
22 for his defense, and if he could not afford an attorney the court would appoint one to  
23 represent him throughout all stages of the proceedings; that at trial he would have the  
24 right to hear and cross examine the government's witnesses, the right to decline to testify  
25 unless he voluntarily elected to do so, and the right to the issuance of subpoenas or  
26  
27  
28

1 compulsory process to compel the attendance of witnesses to testify. He was further  
2 informed that if he decided not to testify or put on evidence at trial, the failure to do so  
3 could not be used against him, and that at trial the jury must return a unanimous verdict  
4 before he could be found guilty or not guilty.

5  
6 The defendant specifically acknowledged understanding these rights and  
7 understanding that by entering a plea of guilty there would be no trial and he will be  
8 waiving or giving up the rights I explained.

9 The defendant was informed that parole has been abolished and that any sentence  
10 of imprisonment must be served, and that his guilty plea may result in loss of important  
11 civil rights, such as the right to vote, to hold public office, to serve on a jury, and to  
12 possess a firearm. The defendant confirmed that he understood these consequences of  
13 the guilty plea.  
14

15 **E. Factual Basis for the Guilty Plea**

16 Defendant was read in open court Count One of the indictment and provided an  
17 explanation of the elements of the offense. The meaning of terms used in the indictment  
18 was explained.  
19

20 Upon questioning, the defendant admitted to facts constituting all of the elements  
21 of the offense charged in Count One and that the evidence the government had available  
22 to establish, in the event defendant elected to go to trial, the defendant's guilt beyond a  
23 reasonable doubt.  
24

25 **F. Voluntariness**

26 The defendant indicated that he was not being forced to plead guilty but was  
27 entering such a plea freely and voluntarily because in fact he is guilty, and that no one  
28

1 had threatened him or offered a thing of value in exchange for his plea. He acknowledged  
2 that no one had made any different or other promises in exchange for his guilty plea,  
3 other than the recommendations set forth in the plea agreement. Throughout the hearing  
4 the defendant was able to consult with his attorney.  
5

#### 6 **IV. Conclusion:**

7 The defendant, by consent, appeared before me pursuant to Rule 11 of the Federal  
8 Rules of Criminal Procedure, and entered a plea of guilty as to count one of the  
9 indictment. After cautioning and examining the defendant under oath and in open court  
10 concerning each of the subject matters mentioned in Rule 11, I find that the defendant,  
11 Santos Matias Vargas-Vargas is competent to enter this guilty plea, is aware of the nature  
12 of the offense charged and the maximum statutory penalties that it carries, understands  
13 that the charge is supported by evidence and a basis in fact, has admitted to the elements  
14 of the offense, and has done so in an intelligent and voluntary manner with full  
15 knowledge of the consequences of his guilty plea. Therefore, I recommend that the court  
16 accept the guilty plea and that the defendant be adjudged guilty as to Count One of the  
17 indictment.  
18  
19

20 This report and recommendation is filed pursuant to 28 U.S.C. § 636(b)(1)(B) and  
21 Rule 72(d) of the Local Rules of this Court. Any objections to the same must be specific  
22 and must be filed with the Clerk of Court **within 14 days**. Failure to file timely and  
23 specific objections to the report and recommendation is a waiver of the right to appellate  
24 review. *See Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Davet v. Maccorone*, 973 F.2d 22,  
25 30–31 (1st Cir. 1992); *Paterson-Leitch Co. v. Mass. Mun. Wholesale Elec. Co.*, 840 F.2d  
26  
27  
28

1 985 (1st Cir. 1988); *Borden v. Sec'y of Health & Human Servs.*, 836 F.2d 4, 6 (1st Cir.  
2 1987).

3 **IT IS SO RECOMMENDED.**

4 In San Juan, Puerto Rico this 24th day of April, 2024.  
5

6 S/Héctor L. Ramos-Vega  
7 HÉCTOR L. RAMOS-VEGA  
8 UNITED STATES MAGISTRATE JUDGE  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28